

On March 18, 1936, no claimant having appeared, judgment was entered finding the product misbranded and ordering that it be condemned and destroyed.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25946. Adulteration and misbranding of olive oil. U. S. v. Five 1-Gallon Cans, Four ½-Gallon Cans, Forty-five ½-Pint Cans, and 21 other libel proceedings against alleged olive oil. Decrees of condemnation. Portion of product released under bond to be relabeled; remainder destroyed, sold, or delivered to charitable institutions.** (F. & D. nos. 37288, 37291, 37293, 37294, 37298 to 37301, incl., 37303, 37306, 37320, 37323, 37331, 37332, 37334, 37342, 37362, 37377, 37397, 37398, 37471, 37472. Sample nos. 29918-B, 43886-B, 49276-B, 52160-B, 56423-B, 60849-B, 61024-B, 61025-B, 61205-B, 63117-B, 63125-B, 63126-B, 63127-B, 65607-B, 65609-B to 65613-B, incl., 65625-B, 65626-B, 65627-B, 65710-B to 65716-B, incl., 65718-B, 65719-B, 65721-B, 65722-B, 65878-B, 65879-B, 65880-B, 66017-B, 66039-B to 66042-B, incl.)

These cases involved shipments of alleged olive oil that contained tea-seed oil, of which a portion was short in volume.

On or about March 4, 1936, the United States attorney for the District of Connecticut, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of five 1-gallon cans, four ½-gallon cans, forty-five ½-pint cans, and 130 cases of alleged olive oil at Stamford, Conn. Between the dates of March 4, 1936, and April 13, 1936, libels were filed against 155 cartons, 4,456 bottles, and 80 cases of alleged olive oil at Boston, Mass.; 381 bottles of the product at Brockton, Mass.; 597 bottles at Plainville, Mass., 51½ cartons at Worcester, Mass.; 99 bottles at Denver, Colo.; 19½ dozen bottles at Portland, Maine; 17 cases, 33 cartons, 43½ dozen bottles, and 12 jugs at St. Paul, Minn.; 477 bottles at Manchester, N. H.; 333 bottles at Charleroi, Pa.; 450 bottles at Tulsa, Okla.; 47½ bottles at Columbus, Ohio; and 12 cartons at Birmingham, Ala. It was alleged in the libels that the article had been shipped in interstate commerce between the dates of January 7, 1935, and March 21, 1936, in part by the De Luca Olive Oil Co., in part by A. J. Capone Co., Inc., from New York, N. Y., and in part by Gus Sciafani from the premises of the De Luca Olive Oil Co., New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act as amended.

The article was alleged to be adulterated in that tea-seed oil had been mixed and packed therewith so as to reduce or lower its quality or strength and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be.

The article was alleged to be misbranded in that the following statements appearing on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil: (Labeled variously on bottles and jugs) "Olio d'Oliva \* \* \* DeLuca", "Pure Imported Olive Oil deLuca", "Pure imported Olive Oil", "Pure Olive Oil \* \* \* DeLuca", "Olive Oil", (on portion of cans) "Puro Olio D'Oliva \* \* \* DeLuca \* \* \* Qualita Sublime Importato dal Italia Questo Olio di Oliva e garantito puro sotto qualsiasi analisi chimica perche ricavato soltanto da olive mature scelte e confezionato nelle migliori condizioni igieniche", "Pure Olive Oil \* \* \* DeLuca \* \* \* The Best Quality Imported from Italy This Olive Oil is guaranteed to be absolutely pure under chemical analysis because it is pressed only from selected ripe olives \* \* \* [design of olive branches]"; (on remainder of cans) "Pure Imported Olive Oil None Better \* \* \* Importato Puro Olio D'Oliva This olive oil is guaranteed to be absolutely pure and indisputably better than that of any other origin both for its natural goodness and exceptional purity \* \* \* Questo Olio e garantito di pura oliva e indiscutibilmente superiore e quello di qualsiasi altra origine sia per la sua naturale bonta che per la sua special raffinatezza, Imported Olive Oil [Design of olive branches with olives]." Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article, namely, olive oil. Misbranding was alleged with respect to portions of the article for the further reason that the statements, "Half Gallon", "One Quart", "One Full Gallon \* \* \* Un Gallone Intero", "Half Full Gallon \* \* \* Mezzo Gallone Intero", "One Full Quart \* \* \* Un Quarto Intero", "One Full Half Pint \* \* \* ½ Gallone Intero", "Net Conts. 4 Fl. Ozs.", "Net Conts. 8 Fl. Ozs.", and "6 Fl. Oz.", appearing on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product in containers that were short of the declared volume; and for the further reason that the said portions were food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was not correct.

On September 8, 1936, A. J. Capone Co., Inc., having appeared as claimant for the lots seized in Massachusetts and having admitted the allegations of the libels, judgment of condemnation was entered and it was ordered that the product covered by the said libels be released under bond conditioned that it be relabeled under the supervision of this Department. Between the dates of May 18, 1936, and August 13, 1936, no claim having been entered for the remaining lots, judgments of condemnation were entered. Most of the said lots were ordered destroyed and the remainder were ordered sold or delivered to charitable institutions.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25947. Adulteration and misbranding of olive oil. U. S. v. 187 Cans of Olive Oil. Default decree of condemnation. Product ordered delivered to local charitable institutions. (F. & D. no. 37338. Sample no. 62311-B.)**

This case involved an interstate shipment of so-called olive oil that contained tea-seed oil and was in cans that were short in volume.

On or about March 12, 1936, the United States attorney for the Southern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 187 cans of so-called olive oil at Houston, Tex., alleging that the article had been shipped in interstate commerce on or about February 6, 1936, by A. J. Capone Co., Inc., from New York, N. Y., and that it was adulterated and misbranded in violation of the Food and Drugs Act. The article, contained in cans of various sizes, was labeled: (Main panels) "One Gallon [or "Half Gallon", "One Quart", "One Pint", or "One Half Pint"] Cora Brand None Better Pure Imported Olive Oil Marca Cora None Better Importato Puro Olio d'Oliwa"; (side panels) "This Olive Oil is Guaranteed to be Absolutely Pure and Indisputably Better than that of any other origin both for its natural goodness and exceptional purity \* \* \* Questo Olio e garantito di pura oliva. E indiscutibilmente superiore e quello di qualsiasi si altra origine sia per la sua naturale bonta che per la sua speciale raffina-tezza \* \* \*"; (top) "Imported Olive Oil."

The article, except the portion in the 1-quart cans, was alleged to be adulterated in that tea-seed oil had been mixed and packed with the article so as to reduce or lower its quality or strength, and in that tea-seed oil had been substituted in whole or in part for olive oil, which the article purported to be.

The article, except the portion in the 1-quart cans, was alleged to be misbranded in that the following statements and designs appearing on the labels were false and misleading and tended to deceive and mislead the purchaser when applied to a product containing tea-seed oil: "Pure Imported Olive Oil \* \* \* Importato Puro Olio d'Oliwa \* \* \* This Olive Oil is guaranteed to be absolutely pure and indisputably better than that of any other origin, both for its natural goodness and exceptional purity \* \* \* Questo olio e garantito di pura oliva. E indiscutibilmente superiore a quello di qualsiasi si altra origine sia per la sua naturale bonta che per la sua speciale raffinatezza. [Designs of olive branches]." The article, except the portion in the 1-quart cans, was alleged to be misbranded further in that it was offered for sale under the distinctive name of another article, namely, olive oil. The article in the cans of all sizes was alleged to be misbranded in that the statements, "One Gallon", "Half Gallon", "One Quart", and "One Pint", appearing on the labels of the cans of various sizes were false and misleading and tended to deceive and mislead the purchaser when applied to a product the cans of which were short in volume.

The article in the cans of all sizes was alleged to be misbranded further in that it was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the quantity stated was not correct.

On May 21, 1936, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product while subject to forfeiture, was suitable for human consumption and should be delivered to charitable institutions.

W. R. GREGG, *Acting Secretary of Agriculture.*

**25948. Adulteration and misbranding of olive oil. U. S. v. 8 and 23 Cans of Alleged Olive Oil. Default decree of condemnation and destruction. (F. & D. nos. 37389, 37390. Sample nos. 43873-B, 43874-B, 43875-B.)**

These cases involved two interstate shipments of so-called olive oil that contained tea-seed oil; the cans containing the oil in one shipment were short in volume.